

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
CONDITIONAL USE PERMIT REPORT #FCU-13-08
SCORE MANAGEMENT - ROSEWATER
SEPTEMBER 17, 2013

This is a report to the Flathead County Board of Adjustment regarding a request from Bill Tanner/Score Management, LLC requesting a Conditional Use Permit (CUP) for the proposed waterskiing use of a private 27 acre lake planned to be built within the recently approved Rosewater SAG-5 Planned Unit Development (PUD) and the preliminarily approved Rosewater Subdivision.

The Flathead County Board of Adjustment will hold a public hearing on the proposed conditional use on October 1, 2013 beginning at 6:00 P.M. in the 2nd floor conference room of the Earl Bennett Building, 1035 First Avenue West, Kalispell. Documents pertaining to this file are available for public inspection in the Flathead County Planning and Zoning Office, also located on the second floor of the Earl Bennett Building.

I. APPLICATION REVIEW UPDATES

A. Land Use Advisory Committee/Council

The proposed amendment is not within the jurisdiction of any local land use advisory committee or local land use council.

B. Board of Adjustment

This space will contain an update regarding the October 1, 2013 Flathead County Board of Adjustment review of the proposal.

II. GENERAL INFORMATION

A. Application Personnel

i. Applicant/landowner

Score Management, LLC - Attn: Bill Tanner
688 Echo Lake Road
Bigfork, MT 59911

ii. Technical Assistance

Sands Surveying, Inc.
2 Village Loop
Kalispell, MT 59901

B. Property Location and Size

The 154.02 acre subject property is located at 1535 Rose Crossing on the north side of Rose Crossing 1/4 mile east of Whitefish Stage Road (see Figure 1 below). The property can be legally described as Assessor's Tracts 1, 1A, and 9A located in Section 20 Township 29 North, Range 21 West, P.M.M., Flathead County, Montana.

C. Existing Land Use(s) and Zoning

The subject property is presently comprised of open fields which have been used for agricultural purposes and there is a central area developed with a barn and several agricultural related buildings.

Located within the Highway 93 North Zoning District, the property is zoned as a SAG-5 Planned Unit Development (PUD), as shown in Figure 3 below. The underlying 'SAG-5 Suburban Agricultural' zone is overlaid by the Rosewater PUD which was adopted pursuant to Resolution No.2352A on July 31, 2013.

The Rosewater PUD was adopted in anticipation of a residential subdivision preliminarily approved on June 3, 2013 which is planned to include a 27 acre man-made lake intended for recreational waterskiing use primarily by lot owners. Regarding applicable zoning and land use on the subject property, all permitted uses, conditional uses, bulk requirements, and dimensional requirements are subject to compliance with the underlying SAG-5 zoning classification, except as modified by the approved Final Rosewater PUD Plan.

Figure 1: Location of subject property (highlighted in blue)



Figure 2: Current land use (subject property shown blue)

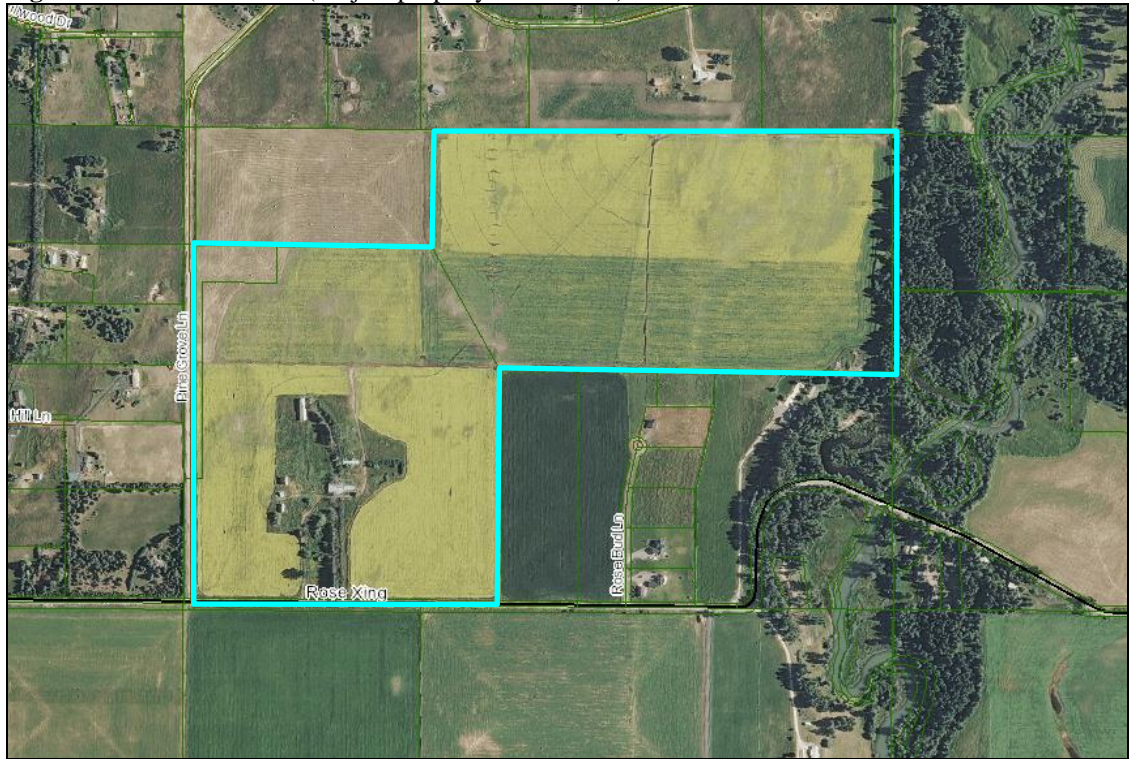
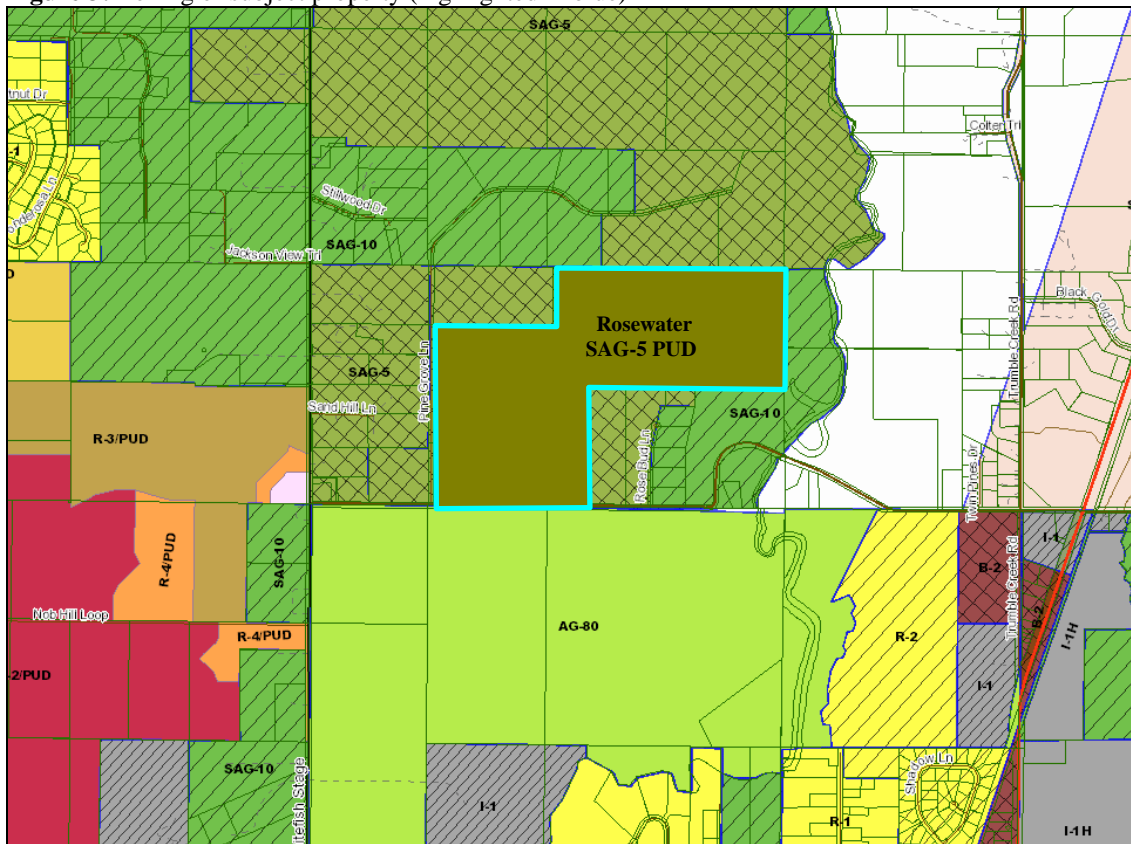


Figure 3: Zoning of subject property (highlighted in blue)



D. Adjacent Land Use(s) and Zoning

Located off of Rose Crossing 1 mile north of Reserve Drive between US Highway 93 and US Highway 2, the proposal site is situated on an elevated bench west of the Whitefish River. The terrain in this area is generally flat and gently rolling with cleared agricultural land-cover adjacent to the timbered canyon and bottoms of the Whitefish River.

As shown in Figures 1 and 2 above, the subject property is situated in an area which is prevalently developed with a mix of agricultural and residential uses. Limited instances of light industrial and commercial uses occur within an approximate one mile radius from the site. The predominant character of the area surrounding the subject property is agricultural and estate-type rural residential, with lot sizes generally ranging from 1.5 to 15 acres on the north side of Rose Crossing and 40 to 150 acres south of Rose Crossing.

As shown in Figure 3 above, the subject property is surrounded by agricultural and suburban agricultural zoning use designations. The Rosewater PUD is bordered to the north, west, and east by areas of 'SAG-5 Suburban Agricultural' and 'SAG-10 Suburban Agricultural', and to the south by 'AG-80 Agricultural' zoning use districts. Beyond the immediate vicinity of the subject property, higher density R-3 PUD, R-4 PUD, and B-2 PUD zoning use districts are established west of Whitefish Stage Road within areas annexed by the City of Kalispell, the nearest point of which occurs 1/4 mile west of the subject property (see Figure 1). An area 1/2 mile south of the subject property was recently amended from AG-80 to 'I-1 Light Industrial' zoning use designation.

E. Summary of Request

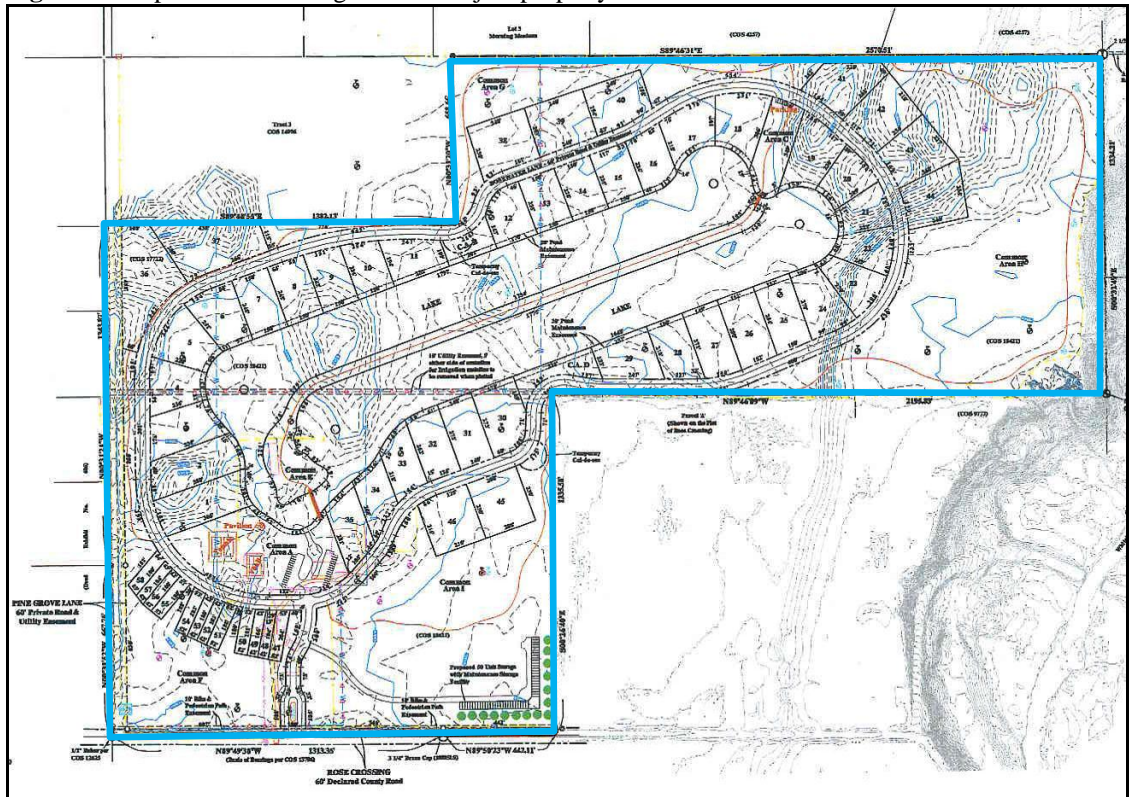
During the previous review processes for the Rosewater PUD and Rosewater Subdivision, there was substantial public comment expressing concerns about potential nuisance impacts associated with the proposed waterskiing use. Based on those comments, 'Waterski/wakeboard/paddling Lake' which was originally proposed as a Permitted Use in the Rosewater Preliminary PUD Plan was required by the Flathead County Board of Commissioners to be placed as a Conditional Use on the Rosewater PUD Final Plan because the Commissioners believed the established review criteria for a conditional use permit was well suited to address the types of potential nuisance impacts, specifically noise, which may be associated with the proposed waterskiing use.

Therefore, the applicant has requested a conditional use permit for the proposed waterski/wakeboarding use of the 27 acre lake planned to be built on the subject property (see Figure 4). The application indicates the private lake is intended primarily for use by Rosewater property owners and guests, and the applicant requests permission to hold up to three waterski competition events annually. Under the conditional use review, potential adverse impacts arising from the proposed use may be considered and mitigated as deemed necessary by the Flathead County Board of Adjustment prior to use of the proposed lake for the proposed purposes.

Proposed Use

As shown on the submitted Rosewater PUD Plan Map and described in the submitted application and Rosewater Operation and Maintenance Manual, the proposed 2400 foot long lake consists of two halves approximately 220 feet wide with bulb shaped endpoints for turning of boats. Each half of the lake is designed and intended for a single towing boat to operate at a given time. The boats would generally operate down the centerline of each side of the lake pulling either a water-skier or wake-boarder, with a typical 'pass' apparently lasting approximately ½ minute. The lake is designed to meet standards of the American Waterskiing Association (AWSA), and as proposed only AWSA approved boats would be permitted to operate on the lake. As proposed the use of motorized personal watercraft (jet skis and wave runners) and 2-cycle engines would be prohibited.

Figure 4: Proposed waterskiing lake on subject property



F. Compliance With Public Notice Requirements

Notification was mailed to property owners within 150 feet of the subject property on September 9, 2013, pursuant to Section 2.06.040 (3) of the Zoning Regulations. Legal notice of the public hearing on this application was published in the September 15, 2013 edition of the Daily Interlake.

G. Agency Referrals

Referrals were sent to the following agencies on August 22, 2013:

- Flathead County Public Works/Road and Bridge Department
- Flathead County Weeds and Parks Department
- Flathead County Solid Waste
- Flathead City-County Health Department
- Flathead County Sheriff
- West Valley Fire District
- Montana Transportation
- Montana Department of Natural Resources and Conservation
- Montana Department of Fish, Wildlife, and Parks

III. COMMENTS RECEIVED

A. Public Comments

One written public comment has been received to date regarding the proposal. The submitted comment is a letter dated June 21, 2013 and signed by sixteen individuals which requests nine specific conditions be placed on the use if the request is approved. The letter indicates seven of the nine requested conditions are based upon claims and statements associated with the requested use by the applicant, and two of the requested conditions (#2 and 9) are special requests pertaining to the interests of neighbors living in vicinity of the proposed use - specifically related to hours of operation and expanded future public notice in the event of a change to the requested use and CUP if the request is approved.

Any written comments received following the completion of this report will be provided to the Board and summarized during the public hearing, and any individual wishing to provide public comment may also do so during the public hearing scheduled for October 1, 2013.

B. Agency Comments

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- David Prunty, Flathead County Road and Bridge Department
 - No concerns regarding the proposal.
- Marc Pitman, Montana Department of Natural Resources and Conservation
 - The proposal site is located outside any FEMA mapped Special Flood Hazard Area. There is no requirement for a 'Dam Construction Permit' or a 'High Hazard Determination' as the lake would not be created by an impoundment (embankment or dam). Regarding the water to fill the lake, the applicant must either change the authorization (of use) of the existing water right or receive a new water right prior to construction of the pond.

IV. CRITERIA REQUIRED FOR CONSIDERATION

Per Sections 2.06.080 and 2.06.100 of the Flathead County Zoning Regulations (FCZR), what follows are criteria required for consideration of a Conditional Use Permit and suggested findings of fact based on review of each criterion.

A. Site Suitability

i. Adequate usable space

The submitted Rosewater PUD Plan Map shows the location of the proposed lake centrally located on the 154 acre subject property and surrounded by 35 residential lots and four 'common areas' of the Rosewater Subdivision. The PUD Plan Map indicates locations of the proposed clubhouse, boat ramp, 30-space parking area, and island-access bridge to be established on Common Area A, and the proposed 6-space parking area and island-access bridge to be established on Common Area C.

The lake is designed to meet standards of the American Waterskiing Association (AWSA), and as such the lake would specifically have suitable area for the type of waterskiing/wakeboarding uses for which the lake is planned. The proposed lake and its surrounding residential lots and internal access road would be situated in a manner that provides a substantial spatial buffer between the majority of the lake and the boundaries of the subject property. At its closest, near the center of the lake, there would be approximately 120 feet open buffer area between the lake and adjoining properties outside of the development.

Finding #1 – The subject property appears suitable for the proposed waterskiing lake in terms of adequate useable space because there is enough area on the subject property to accommodate the proposed lake and its appurtenant club house, parking areas, and access and maintenance facilities while still maintaining substantial buffer areas at a minimum exceeding 100 feet between the lake and adjoining properties located outside of the development boundaries.

ii. Adequate access

As shown on the Rosewater PUD Plan Map, primary access to the site would be from proposed Rosewater Lane via Rose Crossing, a paved County maintained road. Rosewater Lane would be established as a looped road providing access to the proposed lake and all residential lots within the development. The proposed road would be private and gated, and designed and constructed in compliance with currently applicable Flathead County Road and Bridge Department standards for sub-grade structure, width, and paving. Written comment submitted from the Flathead County Road and Bridge Department indicates no concern with the proposal.

Finding #2 - The site has adequate access for the proposed use because the property is accessed by an adequate public road (Rose Crossing) and the development would include construction of a new paved internal road providing direct access to the proposed lake and all residences within the development to accommodate the vehicle traffic created as a result of the proposed use.

iii. Absence of environmental constraints

The subject property may generally be described as relatively flat and open land with no surface waters, wetlands, floodplain, or shallow ground waters within areas proposed for development. The Rosewater PUD and Subdivision borders the Whitefish River drainage where there are steep and unstable slopes above the river which have had a history of localized 'slumping' from the natural movement of subterranean water from a recognized perched aquifer which is under the site.

The topic of concerns of risk associated with construction of the proposed lake on the site were considered in great detail within the review processes which were undertaken for the Rosewater Preliminary PUD and Rosewater Subdivision Preliminary Plat. The soils where the lake would be constructed are composed primarily of sandy/silty loams and the area of the lake would be excavated approximately 8 feet in depth and lined with a specially designed and constructed 30-mil synthetic liner overlain by 18-inches of native soil material. The lake is intended to be filled from water drawn from the Whitefish River via an existing pump-station with a currently established irrigation water line as shown on the submitted Rosewater PUD Plan map. The proposed lake and its liner system and the Rosewater Subdivision have been designed by engineering firms, the lake design has entailed specific geo-technical analysis which considered the lake in relation to the perched aquifer and the Whitefish River, and the subdivision review underwent non-degradation analysis which considered five proposed wastewater treatment systems to be developed on the site along with proposals for domestic water and stormwater management for the 58 residential units which have been preliminarily approved within the development.

Considering environmental constraints regarding creation of the lake and the future residential use within the development boundaries, both the Rosewater Preliminary PUD and Rosewater Subdivision Preliminary Plat were conditioned to minimize adverse impacts to the environment. The applicant's technical advisors have created an Operation and Maintenance Manual for the proposed lake (submitted with application) in order to address long-term monitoring, maintenance, and management of the lake and its liner system.

In regard to the specific proposed waterskiing and wakeboarding use of the proposed lake, there are no environmental constraints from waterskiing and wakeboarding that would inhibit the proposed use. All boats using the facility would be regularly maintained for the intended use and would therefore not introduce significant amounts of pollution to the water of the lake. As the lake liner would be covered with 18 inches of fill material the boat propellers would not have direct contact with the lake liner which could cause damage and leaking of the liner. The lake is designed as a closed system with no direct discharge of water planned or anticipated into the neighboring Whitefish River, and the lake is required as a condition of the subdivision approval to have continuous electronic monitoring of water level in all monitoring wells described in the operations and maintenance manual. In consideration of the

points discussed above it is not anticipated the proposed waterskiing and wakeboarding use would be limited by environmental constraints or introduce adverse impacts to the environment.

Finding #3- While the site contains no surface waters, wetlands, floodplain, or shallow ground waters within areas proposed for development, the subject property is believed to be underlain by a perched aquifer. Considering environmental constraints regarding creation of the lake and the future residential use within the development boundaries, both the Rosewater Preliminary PUD and Rosewater Subdivision Preliminary Plat were conditioned to minimize adverse impacts to the environment and an Operation and Maintenance Manual for the proposed lake (submitted with application) establishes the basis and methodology for long-term monitoring, maintenance, and management of the lake and its liner system.

Finding#4- The site appears suitable for the proposed waterskiing and wakeboarding use because the use of AWSA waterski boats would not introduce adverse impacts to the environment which would not be minimized and adequately mitigated through certified engineered design and long-term monitoring and maintenance of the lake and its liner system.

B. Appropriateness of design

i. Parking scheme

The proposed private lake is intended for use primarily by owners and their guests, and all lots and residences within Rosewater development would have the capability for onsite parking. Additionally, the applicant has proposed 36 standard vehicle parking spaces to specifically serve use of the lake and these are located within Common Areas A and C as shown on the submitted Rosewater PUD Plan Map. Parking needs related to the proposed three annual waterski competition events would be met onsite through the use of the available parking spaces in combination with on-street parking along the internal road network. While the Flathead County Zoning Regulations provide no specific guidance on parking requirements for a private waterski lake, there appears to be ample parking to serve the proposed facility, and no offsite parking is anticipated to be necessary to accommodate the needs of the proposed use.

Finding #5 – The proposed parking location and design appears appropriate because adequate space is available for residential and guest parking considering the lake is a private facility, a maximum of two boats would operate at any given time, and parking needs related to the proposed three annual waterski competition events would be met onsite through the use of the available parking spaces in combination with on-street parking along the internal road network.

ii. Traffic circulation

Vehicle traffic would enter the site and circulate to either internal residential lots or the parking areas for the proposed lake from to-be-built Rosewater Lane via public Rose Crossing. The internal road and parking areas are proposed to

be paved, and the parking areas comply with the applicable spatial requirements as the proposed aisle width of 30 feet exceed the 20 foot minimum for two-way traffic required by FCZR 6.16.020. With 58 proposed residences, the recently approved Rosewater Subdivision preliminary plat considered traffic circulation, and a submitted Traffic Impact Study for the development found the impact to area roads attributable to the waterskiing lake and residential use within the development did not necessitate any improvements to offsite roads and intersections and indicated good traffic planning had been incorporated into the design of the development.

Comment from Flathead County Road and Bridge Department indicates no concern with existing conditions or the proposal in regard to parking and traffic circulation.

Finding #6 – The proposal for traffic circulation appears appropriate in design because the internal access would efficiently serve necessary functions of the waterskiing lake facility while meeting or exceeding applicable dimensional requirements set forth in the Flathead County Zoning Regulations.

iii. Open space

The 27 acre lake would constitute open space within the central area of the 154 acre subject property. In addition to the lake the Rosewater PUD and Subdivision would include 64 acres of open land dedicated on the final Rosewater PUD Plan map as ‘Common Area’. Planned to serve as natural buffers between the lake and its surrounding residential lots and adjacent properties outside of the development, the open Common Areas would also be used to accommodate necessary sanitation and stormwater systems for the development.

Finding #7 – The proposal appears acceptable in its design because the design allows for adequate open space which may serve as a buffer between neighboring uses and would be used to accommodate sanitation and stormwater management infrastructure.

iv. Fencing/screening

The subject property is currently fenced with barbed wire as it was previously used for agriculture, and no additional fencing is proposed. The application and submitted Rosewater PUD Plan Map indicate the development would be equipped with a gated entry. While no specific landscaping is proposed as screening, the proposed waterskiing use would occur within the center of the subject property and would be surrounded by approximately four feet of berming. Additionally the lake would be surrounded by residences on each lot to further shield and visually buffer surrounding adjacent properties from the lake and its regular waterskiing and wakeboarding use.

Finding #8 – The proposal appears acceptable in regard to fencing/screening because the proposed lake would be surrounded by approximately four feet of berming and residences on each lot within the development which would combine to provide visual screening of the lake and its waterskiing and wakeboarding use from adjacent properties.

v. Landscaping

While there is no specific plan to landscape the relatively large 154 acres of the Rosewater development, the proposed lake would be surrounded by 35 residences which are anticipated to have some form of landscaping.

Finding #9 – Landscaping upon the 35 residential lots surrounding the proposed lake would likely limit visual impacts resulting from the proposed use because it would assist in shielding the boat activity on the lake from adjacent properties.

vi. Signage

The application indicates no signage is necessary or proposed for the private waterskiing lake. Allowable signage provisions in the applicable underlying SAG-5 zoning use district are outlined in Section 5.11.040(1) FCZR which indicates signage is limited to one freestanding sign and one wall sign for the business or recreational use on the property, and the sign area shall not exceed 40 square feet. Future signage will be required to meet applicable standards and guidelines pursuant to FCZR Section 5.11.

Finding #10 – There will be limited visual impacts resulting from signage on the proposed facility because no signage is proposed for the private waterskiing/wakeboarding lake, and any future signage would be required to be compliant with applicable requirements set forth in the Flathead County Zoning Regulations which limits signage in the underlying SAG-5 zone to one freestanding sign and one wall sign for the business or recreational use on the property, and the sign area shall not exceed 40 square feet.

vii. Lighting

The application indicates no outdoor lighting is proposed for the waterskiing lake and its use. Exterior lighting used on the proposed clubhouse and residences would be required to comply with performance standards set forth in FCZR Section 5.12.

Finding #11 – There would be no visual impacts resulting from lighting as no lighting is proposed for the lake and its use, and any future lighting would be required to be compliant with applicable requirements set forth in the Flathead County Zoning Regulations.

C. Availability of Public Services and Facilities

i. Sewer

While the proposed lake and its use will not directly generate wastewater requiring treatment and disposal, the clubhouse to be developed on common Area A would be equipped with restrooms available for lake users. Within the Rosewater Subdivision there are five separate Level II wastewater treatment systems planned to serve the 58 residences and the clubhouse and those systems would be required to obtain approval from Environmental Health Services of the Flathead City-County Health Department (FCCHD) and Montana Department of Environmental Quality (MDEQ), as applicable.

Finding #12 – The proposed use will have minimal impact on public services and facilities because the clubhouse serving the lake users and the residences within the Rosewater Subdivision would be served by on-site Level II septic/drainfield systems which would require review and approval from the Flathead City-County Health Department and Montana Department of Environmental Quality.

ii. Water

The plan for domestic water for residences and river water to fill the lake were previously reviewed and preliminarily approved as a component of the Rosewater Subdivision review. The subdivision lots and the lake clubhouse would be served by a future extension of the public water services of the Evergreen Water and Sewer District and the lake would be filled with water from the Whitefish river via an established waterline situated upon an easement described on the face of the submitted Rosewater PUD Plan Map.

Regarding use of the water to fill the lake, comment from Marc Pitman of the Montana Department of Natural Resources states the applicant must either change the authorization (of use) of the existing water right or receive a new water right prior to construction of the pond. The applicant should provide evidence that all applicable water right requirements of the Department of Natural Resources Water Resources Division pertaining to the use of Whitefish River water for filling of the proposed lake have been met, as applicable, prior to filling of the lake.

Finding #13 – The proposed use will have minimal impact on public services and facilities because the lake clubhouse would be served by the public water services of the Evergreen Water and Sewer District and the proposed lake would be filled with water from the adjacent Whitefish River via an existing water system for which a water right has been issued by the Montana Department of Natural Resources and will be amended to serve the particular use, if necessary, as a condition of approval.

iii. Storm Water Drainage

The proposed lake and its waterskiing use would not introduce additional impervious surface area to the subject property. Stormwater runoff associated with development of the Rosewater Subdivision and its various infrastructures are required to be reviewed and approved, as applicable to the Sanitation in Subdivisions Act, by the Flathead City-County Health Department and the Montana Department of Environmental Quality.

Finding #14 –Stormwater drainage appears adequately addressed because the proposed lake would not result in runoff of stormwater, and stormwater management related to development of the Rosewater Subdivision is subject to review and approval, as applicable, by the Flathead City-County Health Department and the Montana Department of Environmental Quality.

iv. Fire Protection

The site is located within the West Valley Fire District and a fire station with Basic Life Support services is located approximately one driving mile north of

the subdivision on Whitefish Stage Road. The Kalispell Regional Medical Center is approximately four miles from the proposed subdivision, and the Kalispell Fire Department is available to serve the location through a mutual aid agreement with the West Valley Fire District.

v. Police Protection

The subject property is served by the Flathead County Sheriff's Department. Relatively quick response times would be anticipated given the property's access from collector and arterial roads and proximity to the urbanized area of Kalispell.

vi. Streets

The subject property and the proposed lake would be accessed from proposed Rosewater Lane via Rose Crossing, a paved County maintained road. Rosewater Lane would be established as a looped road providing access to the lake and all surrounding residential lots. The proposed road would be private and gated, and designed and constructed in compliance with currently applicable Flathead County Road and Bridge Department standards for sub-grade structure, width, and paving. Written comment submitted from the Flathead County Road and Bridge Department indicates no concern with the proposal.

Finding #15 - Public services and facilities are adequate to serve the proposed expanded use because the subject property is in an area of the county served by the West Valley Fire District, the Kalispell Fire Department, and the Flathead County Sheriff, and has the site has direct access onto Rose Crossing, a paved public collector road adequate to serve the traffic generated by the proposed use.

D. Immediate Neighborhood Impact

i. Excessive traffic generation

The application indicates the proposed waterskiing and wakeboarding use will not generate substantial traffic unto itself as the proposed lake would be private and the use is generally limited to Rosewater Subdivision lot owners and their guests with the exception of three requested annual waterski competition events which are anticipated to have 20-30 competitors.

At full build-out the Rosewater Subdivision would experience approximately 500 vehicle trips daily attributed to the residential use of the subdivision. Considering the use of the lake is intended primarily for owners, the proposed competition events would result in the most traffic generation attributable to the proposed use of the lake.

Requested conditions outlined on the submitted letter from adjacent owners asks that the lake be limited to two competitions per year and that no event parking be allowed offsite, particularly on neighboring Rose Crossing and Pine Grove Lane.

- The applicant has requested three annual waterski competition events as a component of this conditional use request. While potential for excessive traffic generation associated with waterski competition events may provide reasoning for the neighbor's requests to permit only two

competitions annually, it is noted that the underlying SAG-5 zoning includes both Low Impact and High Impact Recreation Facilities available as conditional uses. It appears a waterski competition event may qualify as a High Impact Recreation Facility based on traffic generation because the threshold for a High Impact Recreation Facility as related to traffic generation is 20 trips per hour at peak hour or 75 trips per day. Examples of High Impact Recreation Facilities include uses such as water slide, fairground, zoo, golf course, ski area, and rifle range which typically operate daily either seasonally or year round.

It seems reasonable to grant the request for three waterski competition events per year considering the relatively short duration of the events, the fact that other High Impact Recreation Facilities typically operate daily with a higher regularity of traffic than the waterski competition events would generate, and the proposed use's impacts can generally be mitigated as reviewed in this report and as conditioned by the Board of Adjustment.

- While it appears reasonable to prohibit offsite event parking on private Pine Grove Lane in order to minimize traffic impacts to land owners using that road, it does not appear appropriate to attempt to regulate roadside parking on a public road such as Rose Crossing considering the road is not specifically designated as 'no parking' and no concerns regarding that road have been noted by the Flathead County Road and Bridge Department. However, there is plenty of parking within the PUD boundaries and the necessity for off-site parking is unlikely and not anticipated.

Finding #16 - The use of the proposed lake for three annual proposed waterski competition events appears to qualify as a High Impact Recreation Facility based on traffic generation because combined competitor and spectator traffic would likely exceed the High Impact Recreation Facility traffic threshold of 20 trips per hour at peak hour or 75 trips per day. It seems reasonable to grant the request for three waterski competition events per year considering the relatively short duration of the events and the fact that other High Impact Recreation Facilities available in the underlying SAG-5 zone typically operate daily with a higher regularity of traffic than the waterski competition events would generate.

Finding #17 - Additional vehicle traffic associated with the proposed private waterski lake use is not anticipated to regularly generate excessive traffic which would adversely impact the immediate neighborhood because traffic generated by the waterski lake would typically be limited to that of lot owners, increased traffic generated by the occasional waterski competition event would utilize existing public collector Rose Crossing and private internal Rosewater Lane designed to accommodate relatively high traffic volumes, and parking would be accommodated onsite within designated parking areas and along the private roadways of the Rosewater PUD, and while not anticipated, limited additional parking would be available offsite along public roadways as available.

ii. Noise or vibration

During the previous Rosewater Preliminary PUD and Preliminary Plat reviews the intended waterskiing and wakeboarding use of the proposed lake prompted substantial concern from neighboring residents regarding potential noise impacts. The topic is challenging because Flathead County has not adopted a noise ordinance and the FCZR contain little guidance on the matter.

The application indicates a number of measures the development has considered to minimize and manage noise impact to the surrounding residential areas.

- As mentioned previously, the lake is designed to meet standards of the American Waterskiing Association (AWSA), and as proposed, only AWSA approved boats would be permitted to operate on the lake. Adherence to AWSA standards would have direct bearing on the level of sound emitted from the operation of approved boats on the course, which would be limited to 75 decibels (dB) for either a 34.2 mph or 36 mph pass measured 125 feet from centerline of the course. The application includes a Sound Decibel Map for Rosewater which indicates decibel measurements of sound would decrease with distance from the source, which is a towing boat operating at standard AWSA speeds down the centerline of each half of the lake. Based on the map's decibel measurements, the most noise an adjacent resident would be subjected to with standard waterskiing/wakeboarding operation is approximately 60dB which according to cited sources is equivalent to sound emitted from normal conversation at three feet. The highest anticipated decibel levels to be generated by standard waterskiing/wakeboarding operation, 75dB at 125 feet from the lake's centerlines, is approximately equivalent to sound emitted from a vacuum according to cited sources.
- Due to berming around the lake, the water level would be at least four feet below the adjacent land level at a distance of fifty feet from water's edge. Coupled with the placement of subdivision residences with landscaping on 35 lots surrounding the lake the sound generated by standard waterskiing/wakeboarding operation would be reduced.
- AWSA approved boats achieve low sound levels with a maximum of 75dB at 125 feet through the use of inboard motors, mufflers, and exhaust discharge below water level.
- The applicant would voluntarily prohibit the use of 2-cycle engines and personal motorized watercraft such as jet skis and wave runners, and this restriction would be written in the CC&R's for Rosewater.

Finding #18 – While the proposed would generate noise and/or vibration from motorized waterskiing boats, the boat noise and vibration is not anticipated to adversely impact the immediate neighborhood based on submitted technical information indicating decibel levels extending outside the PUD boundary would not exceed those typical of normal conversation at a distance of 3 feet, and because the operation of the boats would be limited to reasonable approved hours of operation.

iii. Dust, glare or heat

The application indicates the proposed waterskiing lake and its use will not produce dust, glare or heat. The lake would be surrounded by a four foot high berm and residences which would limit visibility of glare from boats as viewed from adjacent properties.

Finding #19 – The proposed waterskiing lake and its use is not anticipated to generate dust, glare, or heat which would adversely impact the immediate neighborhood because waterskiing and wakeboarding use does not generate substantial dust or heat and potential visibility of glare from boats would be minimal as viewed from adjacent properties because the lake would be surrounded by a four foot high berm and residences.

iv. Smoke, fumes, gas, or odors

The application indicates the proposed waterskiing lake and its use will not produce smoke, fumes, gas or odors. As all boats to be used on the lake would be required to meet AWSA standards and no 2-cycle engines are permitted, it appears reasonable that smoke, fumes, gas or odors generated by the boats would be minimal and non-impacting to the immediate neighborhood.

Finding #20 – Adverse neighborhood impacts due to smoke, fumes, gas or odors are not anticipated as a result of the proposed use because the types of boats to be used would comply with AWSA standards which would result in minimal generation of smoke, fumes, gas or odors.

v. Inappropriate hours of operation

The application indicates hours of operation would be “...no earlier than 7:00 AM and no later than 10:00 PM”. The topic of hours of operation was discussed within the review of the Rosewater Subdivision Preliminary Plat, and based on the State law governing waterskiing on public lakes the preliminary plat approval includes a condition (#31) stating “Waterskiing and other towed recreation is not allowed between sunset and sunrise.”

Concerned about waterskiing noise being a nuisance and noting sunrise is as early as 5:36 AM and sunset is as late as 9:42 PM, the submitted letter from adjacent owners states that the subdivision preliminary plat condition approved by the Board of Commissioners is unacceptable and asks that the proposed lake’s waterskiing hours of operation be from 9:00 AM to 9:00 PM or one half hour before sunset, whichever is earlier so that surrounding neighbors “can enjoy an hour of quiet at the end of the day”. Staff recommends a reasonable compromise between the applicant and neighboring landowner requests to establish approved waterskiing hours of operation from 8:30AM to 9:30 PM.

Finding #21 - The Board of Commissioners approved hours of operation between sunrise and sunset as a condition of the Rosewater preliminary plat approval, and the application indicates proposed hours of operation would be from 7:00 AM to 10:00 PM. The proposed hours of operation may have potential impact on the surrounding neighborhood because residential uses occur in relatively close proximity to the proposed lake (as close as 650 ft.) and neighbors have requested hours of operation be from 9:00 AM to 9:00 PM or

one half hour before sunset, whichever is earlier so that surrounding neighbors “can enjoy an hour of quiet at the end of the day”. A compromise to establish approved waterskiing hours of operation from 8:30 AM to 9:30 PM appears reasonable because it addresses the interests of both parties.

V. SUMMARY OF FINDINGS

1. The subject property appears suitable for the proposed waterskiing lake because in terms of adequate useable space because there is enough area on the subject property to accommodate the proposed lake and its appurtenant club house, parking areas, and access and maintenance facilities while still maintaining substantial buffer areas at a minimum exceeding 100 feet between the lake and adjoining properties located outside of the development boundaries.
2. The site has adequate access for the proposed use because the property is accessed by an adequate public road (Rose Crossing) and the development would include construction of a new paved internal road providing direct access to the proposed lake and all residences within the development to accommodate the vehicle traffic created as a result of the proposed use.
3. While the site contains no surface waters, wetlands, floodplain, or shallow ground waters within areas proposed for development, the subject property is believed to be underlain by a perched aquifer. Considering environmental constraints regarding creation of the lake and the future residential use within the development boundaries, both the Rosewater Preliminary PUD and Rosewater Subdivision Preliminary Plat were conditioned to minimize adverse impacts to the environment and an Operation and Maintenance Manual for the proposed lake (submitted with application) establishes the basis and methodology for long-term monitoring, maintenance, and management of the lake and its liner system.
4. The site appears suitable for the proposed waterskiing and wakeboarding use because the use of AWSA waterski boats would not introduce adverse impacts to the environment which would not be minimized and adequately mitigated through certified engineered design and long-term monitoring and maintenance of the lake and its liner system.
5. The proposed parking location and design appears appropriate because adequate space is available for residential and guest parking considering the lake is a private facility, a maximum of two boats would operate at any given time, and parking needs related to the proposed three annual waterski competition events would be met onsite through the use of the available parking spaces in combination with on-street parking along the internal road network.
6. The proposal for traffic circulation appears appropriate in design because the internal access would efficiently serve necessary functions of the waterskiing lake facility while meeting or exceeding applicable dimensional requirements set forth in the Flathead County Zoning Regulations.
7. The proposal appears acceptable in its design because the design allows for adequate open space which may serve as a buffer between neighboring uses and would be used to accommodate sanitation and stormwater management infrastructure.

8. The proposal appears acceptable in regard to fencing/screening because the proposed lake would be surrounded by approximately four feet of berming and residences on each lot within the development which would combine to provide visual screening of the lake and its waterskiing and wakeboarding use from adjacent properties.
9. Landscaping upon the 35 residential lots surrounding the proposed lake would likely limit visual impacts resulting from the proposed use because it would assist in shielding the boat activity on the lake from adjacent properties.
10. There will be limited visual impacts resulting from signage on the proposed facility because no signage is proposed for the private waterskiing/wakeboarding lake, and any future signage would be required to be compliant with applicable requirements set forth in the Flathead County Zoning Regulations which limits signage in the underlying SAG-5 zone to one freestanding sign and one wall sign for the business or recreational use on the property, and the sign area shall not exceed 40 square feet.
11. There would be no visual impacts resulting from lighting as no lighting is proposed for the lake and its use, and any future lighting would be required to be compliant with applicable requirements set forth in the Flathead County Zoning Regulations.
12. The proposed use will have minimal impact on public services and facilities because the clubhouse serving the lake users and the residences within the Rosewater Subdivision would be served by on-site Level II septic/drainfield systems which would require review and approval from the Flathead City-County Health Department and Montana Department of Environmental Quality.
13. The proposed use will have minimal impact on public services and facilities because the lake clubhouse would be served by the public water services of the Evergreen Water and Sewer District and the proposed lake would be filled with water from the adjacent Whitefish River via an existing water system for which a water right has been issued by the Montana Department of Natural Resources and will be amended to serve the particular use, if necessary, as a condition of approval.
14. Stormwater drainage appears adequately addressed because the proposed lake would not result in runoff of stormwater, and stormwater management related to development of the Rosewater Subdivision is subject to review and approval, as applicable, by the Flathead City-County Health Department and the Montana Department of Environmental Quality.
15. Public services and facilities are adequate to serve the proposed expanded use because the subject property is in an area of the county served by the West Valley Fire District, the Kalispell Fire Department, and the Flathead County Sheriff, and the site has direct access onto Rose Crossing, a paved public collector road adequate to serve the traffic generated by the proposed use.
16. The use of the proposed lake for three annual proposed waterski competition events appears to qualify as a High Impact Recreation Facility based on traffic generation because combined competitor and spectator traffic would likely exceed the High Impact Recreation Facility traffic threshold of 20 trips per hour at peak hour or 75 trips per day. It seems reasonable to grant the request for three waterski competition events per year considering the relatively short duration of the events and the fact that other High Impact

Recreation Facilities available in the underlying SAG-5 zone typically operate daily with a higher regularity of traffic than the waterski competition events would generate.

17. Additional vehicle traffic associated with the proposed private waterski lake use is not anticipated to regularly generate excessive traffic which would adversely impact the immediate neighborhood because traffic generated by the waterski lake would typically be limited to that of lot owners, increased traffic generated by the occasional waterski competition event would utilize existing public collector Rose Crossing and private internal Rosewater Lane designed to accommodate relatively high traffic volumes, and parking would be accommodated onsite within designated parking areas and along the private roadways of the Rosewater PUD, and while not anticipated, limited additional parking would be available offsite along public roadways as available.
18. While the proposed would generate noise and/or vibration from motorized waterskiing boats, the boat noise and vibration is not anticipated to adversely impact the immediate neighborhood based on submitted technical information indicating decibel levels extending outside the PUD boundary would not exceed those typical of normal conversation at a distance of 3 feet, and because the operation of the boats would be limited to reasonable approved hours of operation.
19. The proposed waterskiing lake and its use is not anticipated to generate dust, glare, or heat which would adversely impact the immediate neighborhood because waterskiing and wakeboarding use does not generate substantial dust or heat and potential visibility of glare from boats would be minimal as viewed from adjacent properties because the lake would be surrounded by a four foot high berm and residences.
20. Adverse neighborhood impacts due to smoke, fumes, gas or odors are not anticipated as a result of the proposed use because the types of boats to be used would comply with AWSA standards which would result in minimal generation of smoke, fumes, gas or odors.
21. The Board of Commissioners approved hours of operation between sunrise and sunset as a condition of the Rosewater preliminary plat approval, and the application indicates proposed hours of operation would be from 7:00 AM to 10:00 PM. The proposed hours of operation may have potential impact on the surrounding neighborhood because residential uses occur in relatively close proximity to the proposed lake (as close as 650 ft.) and neighbors have requested hours of operation be from 9:00 AM to 9:00 PM or one half hour before sunset, whichever is earlier so that surrounding neighbors “can enjoy an hour of quiet at the end of the day”. A compromise to establish approved waterskiing hours of operation from 8:30 AM to 9:30 PM appears reasonable because it addresses the interests of both parties.

VI. CONCLUSION

Upon review and evaluation of this application, the request for a Conditional Use Permit for the proposed waterskiing use of a private 27 acre lake planned to be built within the recently approved Rosewater SAG-5 Planned Unit Development (PUD) and the preliminarily approved Rosewater Subdivision on the subject property is generally supported by the review criteria and 21 Findings of Fact listed above if conditioned to mitigate impacts.

VII. CONDITIONS

1. The operation of the waterskiing/wakeboarding use on the subject property shall be in substantial conformance with the original application and site plan submitted and approved by the Board of Adjustment.
2. Changes or modifications to the approved use(s) or the site plan shall not be affected unless specifically approved in writing by the Flathead County Board of Adjustment.
3. A minimum of 36 standard vehicle parking spaces shall be clearly established on the subject to accommodate owner, guest, and event traffic generated by the waterski lake facility and there shall be no event related off-site parking on Pine Grove Lane. Design of parking spaces shall be in accordance with applicable zoning regulations [FCZR Section 6.10.010].
4. All signage on the subject property shall comply with all applicable standards and guidelines set forth under Section 3.40.040 of the Flathead County Zoning Regulations.
5. All lighting on the subject property shall adhere to the performance standards set forth in Section 5.12 of the Flathead County Zoning Regulations.
6. Prior to construction of the lake, the applicant shall comply with all applicable water right requirements of the Department of Natural Resources Water Resources Division pertaining to the use of Whitefish River water for filling of the proposed lake have been met. Documentation providing evidence of an approved water right appropriate for the type of use shall be made available upon request.
7. The proposed lake berming plan shall be implemented as proposed prior to commencement of waterskiing/wakeboarding activities on the lake.
8. Operation and long-term monitoring and maintenance of the lake and its liner system shall adhere to the standards, provisions, and methods outlined in the Operation and Maintenance Manual for Rosewater.
9. All motorized boats operating on the lake shall be AWSA tournament approved boats conforming to the AWSA standard of 75 dB at 125 feet.
10. Hours of operation shall be from 8:30 AM to 9:30 PM.
11. There may be up to three waterski/wakeboard competition events annually.
12. The construction and operation of the waterskiing/wakeboarding lake shall commence within one year from the date of issuance of the conditional use permit pursuant to FCZR 2.06.060.